

REMARKS

Applicants appreciate the courtesies extended to their representative, Allan Fanucci, by Examiner Leslie Wong during an interview on January 27, 2005. The comments appearing herein are substantially the same as those that were presented and discussed during the interview.

Claims 1-17, as amended, appear in this application for the Examiner's review and consideration. Claim 1 has been amended to recite that the aroma-providing component that is stabilized is one that is isolated, concentrated or separated from a food, beverage, food-forming or beverage-forming material, and that, when combining the aroma-providing component with the material to form the product for consumption, the aroma-providing component imparts to the product an improved or enhanced aroma compared to the aroma provided by an unstabilized aroma-providing component. These changes are supported by the first paragraph of the detailed description wherein the term "aroma-providing component" is defined. As no new matter has been introduced, the entry of these claim changes at this time is warranted. As these amendments are being made simply to clarify the invention, it is respectfully submitted that their entry at this time is appropriate. Furthermore, the entry of these changes should place the claims in condition for allowance.

The claims were again rejected over either of Reich US patent 3,421,906 or Belrhlid et al. ("Belrhlid") European patent application 963,706 for the reasons set forth on pages 2-3 of the action.

Applicants expressly adopt and incorporate herein the comments provided in their prior response regarding these references. In addition, as explained during the interview, the present claims recite a process for stabilizing an aroma-providing component that is isolated, concentrated or separated from a food, beverage, food-forming or beverage-forming material. This component is typically a compound that is added to a food or beverage prior to consumption. The present invention is not the simple addition of a stabilizing agent to a foodstuff, but instead relates to the stabilization of a component of the foodstuff that provides an aroma. By itself, the aroma-providing component is insufficient to form a food or beverage, but instead is an additive to the food or beverage when forming such products. This component is stabilized against degradation and the stabilized component is separately stored so that the component can maintain the ability to impart desirable flavor or sensory characteristics of the aroma to the food, beverage, food-forming or beverage-forming material.

when forming a product for consumption. By adding a stabilized component during preparation and preferably immediately prior to consumption, the resultant product contains an improved or enhanced aroma compared to one prepared with an unstabilized aroma-providing component.

In contrast, Reich discloses a method for treating roasted coffee to avoid staling. That method includes the treatment of coffee with sulfur dioxide or a salt that releases sulfur dioxide in combination with ammonia to remove acrid sulfur dioxide odors. This treatment is performed to stabilize coffee flavor and aroma so that without introducing objectionable aromas or odors. This results in the retention of the desirable coffee flavors and aromas while also preventing staling of the coffee during packaging and storage. To do this, Reich adds sulfur dioxide vapor directly to the coffee, such as by introducing it into the grinding chamber of the mill used to grind roast coffee either along with or preceded by a stream of ammonia. Thereafter, Reich subjects the treated coffee to carbon dioxide stripping to remove the sulfur dioxide and ammonia vapors before packaging the treated product.

The present invention, as defined in claim 1, is patentable over Reich because Reich does not disclose the separate storage of the stabilized aroma-providing component prior to combining that component with a further component of a food, beverage, food-forming or beverage-forming material and optionally with a liquid to form a product for consumption. Instead, Reich either (1) combines a stabilizing agent such as sulfur dioxide with the ground coffee to treat it, but does *not* form a beverage or food product from a stabilized aroma-providing component until after storage, or (2) treats the coffee and then *removes* the agent prior to packaging. Even when Reich discloses the treatment of a component such as coffee oil, he does not teach that the stabilized component should be separately stored. Instead, the treated coffee oil is added to the coffee product and is stored together until usage. These situations are not covered by the claims of the present invention. Instead, the present invention provides significant improvements in the aroma of the resulting product by stabilizing the aroma-providing component and then storing it separately from food, beverage, food-forming or beverage-forming materials until the product is prepared for consumption. Thus, when a beverage or food is formed with the stabilized aroma-providing ingredient, an improved and enhanced aroma is obtained in the product compared to products prepared with an unstabilized aroma-providing component or to products that are stored with the stabilized an aroma-providing component.

In coffee, for example, conventional non-treated or non-stabilized coffee aroma contain amounts of methane thiol and pyrrole that typically degrade or diminish to almost undetectable levels over the course of several months when the components are stored at room temperature. Even if the stabilizer is added to the final product that contains a non-stabilized aroma providing component, these volatiles are substantially degraded because the stabilizer is added to the whole food matrix and is integrated therewith so that less of it is available to interact with the aroma-providing component. In contrast, the treated or stabilized aroma-providing components of the invention are separately stored so that they possess a significantly reduced degradation profile compared to the conventional components. For example, methane thiol and pyrrole levels remain at more than 30% of the initial levels after storage at ambient temperature over a period of at least 6 months. This enables the component to impart enhanced amounts of those compounds into the beverage product when it is formed, so that the beverage has a fresher taste and flavor.

In addition, regarding claim 14, Reich does not disclose making a food or beverage product from a first component of a food, beverage, a food-forming component or a beverage-forming component, and a second component of the previously described stabilized aroma-providing component wherein the stabilized aroma-providing component is separately stored from the first component. As noted, Reich either packages the stabilized component with the beverage forming material or he removes the stabilizer from the product prior to storage. Applicants store the stabilized component separately from the food or beverage forming component prior to formation of the product so that, upon preparation, the unexpected advantages in flavor and aroma can be achieved. Thus, all rejections based on Reich have been overcome and should be withdrawn.

As to the Belrlhid reference, applicants note that it is simply not relevant to the present claims because it has no disclosure of any stabilizing agent. Instead, Belrlhid discloses sulfur containing precursors that can be added to a food or beverage to generate flavoring components when heated. As noted, the simple addition of compounds to foodstuffs is not what is disclosed or claimed in the present invention. Belrlhid does not disclose that a stabilizing agent is present with the aroma-providing component and that it is stored separately prior to combining the stabilized aroma-providing component with a further component of a food, beverage, food-forming or beverage-forming material and optionally with a liquid to form a product for consumption. Instead, Belrlhid discloses a precursor mixture of flavorings that generate a grilled note (or similar flavors) when heated. The present invention is instead

directed at providing significant improvements in the *aroma* of the resulting product by maintaining the stabilized aroma-providing ingredient (i.e., the combination of the stabilizing agent and the aroma-providing ingredient) during packaging and storage so that, when a beverage or food is formed with the stabilized aroma-providing ingredient, improved and enhanced aroma is obtained in the product compared to products prepared with an unstabilized aroma-providing component. One of ordinary skill in the art would recognize the difference between the use of a flavoring agent for taste improvement compared to the stabilization of an aroma-providing ingredient to provide aroma improvement, so that the rejection over Belrhlid has been overcome and should be withdrawn.

In addition, claims 12-13, 15 and 17 are further patentable over Belrhlid since the specific stabilized aroma-providing ingredients of those claims are not disclosed in Belrhlid. Belrhlid simply does have a stabilizer in contact with coffee, tea, malt or the other aroma-providing components recited in those claims.

Claim 14 is also separately patentable over Belrhlid as that reference does not disclose forming a food or beverage product by combining a first component of a food, beverage, a food-forming component or a beverage-forming component and a second component of the previously described stabilized aroma-providing component wherein the stabilized aroma-providing component is separately stored from the first component until the combination is to be used to prepare a food or beverage product for consumption. As noted, Belrhlid is not concerned with the stabilization of an aroma and instead is concerned with flavor modification when heat is added to a product. In contrast, applicants provide a combination where a separately stored stabilized aroma-providing component is included with a food or beverage forming component so that, upon preparation, unexpected advantages in aroma can be achieved. When aroma-providing components such as coffee aroma are stabilized as taught by the present invention, significant benefits are achieved as explained above and as further explained in the specification. In view of the preceding, it is respectfully submitted that all rejections based on Belrhlid have been overcome and should be withdrawn.

Finally, in their prior response, applicants submitted a copy of an English abstract for Chinese patent application CN 1109277, but did not receive acknowledgement of receipt from the Examiner. For the Examiner's convenience, a PTO form 1449 is enclosed for this purpose. It is respectfully submitted that no additional fee is needed for the Examiner to consider this reference, but if any additional fees are required, they may be charged to the deposit account noted herein.

Accordingly, the entire application is now believed to be in condition for allowance, early notice of which would be appreciated. Should the Examiner not agree that all claims are patentable, then a personal or telephonic interview is respectfully requested to discuss any remaining issues in order to expedite the eventual allowance of this application.

Respectfully submitted,

1/31/05

Date



Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN LLP
Customer No. 28765

212-294-3311